

To: The Honorable Mayor and City Council

From: Maxine Calloway, Esq., A.I.C.P., Director of Community Planning & Development

Date: May 8, 2012

V-4-12 DARNEISHA BRYANT – 12953 NORTHWEST 7 AVENUE

PETITION FOR MUSIC AND ENTERTAINMENT LICENSE PURSUANT TO CHAPTER 3, SECTION 3-8 OF THE CODE OF ORDINANCES TO ALLOW A NIGHTCLUB IN THE C-1 ZONING DISTRICT.

RECOMMENDATION

That the City Council approves the attached Board Order along with the conditions granting a music and entertainment license to the applicant for the Pink Star Lounge business located at 12953 Northwest 7th Avenue in North Miami.

At its meeting on April 18, 2012 the Board of Adjustment considered the above captioned application and entertained discussions regarding the applicant's experience in doing this business along with security concerns and the type of clientele anticipated. The Board being satisfied with the responses given by the applicant, voted 4-0 to approve the request for a music and entertainment license subject to the following conditions:

1. That security is provided on all nights when music and entertainment is provided.
2. The applicant shall employ a minimum of one North Miami police officer on Thursday, Friday, and Saturday nights until closing time of the nightclub.
3. The establishment shall not cause or create noise or other nuisances in the neighborhood.

4. The use of the establishment as a nightclub shall not cause, directly or indirectly, an upsurge in crime or police response incidents at or about the premises, as determined by the City of North Miami Police Chief.
5. The establishment shall at no time be rented to or allowed use by a promoter of any kind for events wherein the general public is invited to attend.
6. The use of the establishment as a nightclub shall not cause, directly or indirectly, any activity deemed to be a threat to the public health, safety, comfort, order, appearance, morals, and general welfare and quality of life in the City of North Miami, as determined by the City of North Miami Police Chief.
7. The operations on the site will be monitored by the North Miami Police Department and the Department of Community Planning and Development for compliance with these conditions and compliance with the City of North Miami's Code of Ordinances.
8. The music and entertainment license and special exception use for the nightclub use shall be subject to revocation for violations to the above restrictions and conditions, as determined by the City's Police Chief and Community Planning and Development Director.

BACKGROUND INFORMATION

Staff reported to the Board the following:

1. The applicant will occupy approximately 2,900 sq. ft. of space in a strip shopping center on the east side of NW 7th Avenue. This location has operated as a restaurant and nightclub since June, 1996 under various names and owners. Most recently, it operated only as a nightclub (Champions 2), not a restaurant.
2. The applicant wishes to also operate only as a nightclub with a music and entertainment license. The establishment will be open seven days a week from 7:00 pm until 2:00 or 3:00 am. Chapter 3 of the City's Code of Ordinances allows alcoholic beverages sales until 1:00 am on weeknights (Monday through Friday AM hours) and until 2:00 am on weekend nights (Saturday and Sunday AM hours) and consumption of alcohol for an additional ½ hour. The applicant is fully aware of the City's code regarding hours of alcoholic beverage sales and was provided a copy of Chapter 3, Alcoholic Beverages. The applicant intends on obtaining

a 4COP license, which is a full liquor license. A distance waiver variance was previously granted in 2010 for this location.

3. The applicant has stated in her letter of intent that she plans to provide entertainment in the form of live bands or disc jockey music with dancing, and hopes to cater to a mature clientele.
4. Article 4, Section 4-302 states that nightclubs are a special exception use in the C-1 district.

Chapter 3, Section 3-9 of the City's Code of Ordinances stipulates the following standards for providing a music and entertainment license:

1. *The granting of a music and entertainment license will not substantially injure or detract from the use of the surrounding properties or from the character of the neighborhood.*

The granting of the music and entertainment license should not substantially injure or detract from surrounding properties or the character of the neighborhood, provided the applicant adheres to the conditions above and to keeping the windows and doors closed, patrons inside, and to the hours of alcoholic beverage sales stipulated and permitted by code.

2. *There is sufficient parking for patrons and appropriate access facilities adequate for the estimated traffic from public streets and sidewalks so as to assure the public safety and to avoid traffic congestion.*

The parking required for nightclubs is five spaces plus one space per 50 sq. ft. of customer service area. Since there is approximately 2,000 sq. ft. of customer service area, the nightclub requires forty-five parking spaces. The property as a whole contains 97 parking spaces and since the nightclub is the only use operating late at night and the land development regulations allow for shared parking, the parking is deemed sufficient for the proposed use.

3. *Where the installation of outdoor floodlighting or spotlighting is intended, that such lighting will not have any detrimental effect on neighboring property or traffic.*

There is adequate and appropriate lighting at the site, including lighting underneath the building overhang and lighting throughout the parking lot.

4. *Nightclubs shall be soundproofed and their windows, doors, and other openings kept closed in order that the noises there from may not disturb the peace and quiet of the surrounding neighborhood and noise caused by the establishment shall be kept at such a level so as to conform to the zoning code.*

The storefront location is not soundproofed. However, the nightclub is in a large strip shopping center between an auto repair business and New Foods grocery store, which closes at 9:00 pm. To the rear are Roberts Moving and Storage and other commercial uses, and to the front is the large parking lot of the center. In lieu of these circumstances, it is Staff's opinion that soundproofing is not necessary.

5. *Whether or not there is adequate security provided by the establishment.*

The applicant has agreed to the conditions as stated above which includes the provision of at least one security guard, and on busy nights, one North Miami off duty police officer as well.

At the April 18th meeting, in addition to the music and entertainment license, the Board granted a special exception use to allow a nightclub in the C-1 District pursuant to Article 4, Section 4-302 and Article 3, Section 3-504 of the Land Development Regulations. The Board of Adjustment approval is based on the applicant satisfying the conditions specified for a music and entertainment license and special exception for the nightclub use in the Land Development Regulations, as well as future compliance with all conditions imposed.

JM/mc

Attachments

1. Board of Adjustment Staff Report
2. Development Application
3. Plans and Property Survey
4. Board of Adjustment Order

Prepared by and Return to:
Regine M. Monestime
City Attorney
CITY OF NORTH MIAMI
776 N.E. 125 Street
North Miami, FL 33161

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**BEFORE THE BOARD OF ADJUSTMENT
CITY OF NORTH MIAMI, FLORIDA**

**HEARING DATE: April 18, 2012
FILE NO. V-4-12**

**IN RE: The Application of: Darneisha Bryant
12955 NW 7th Avenue, L.C.
12953 Northwest 7th Avenue
North Miami, FL**

MUSIC AND ENTERTAINMENT LICENSE

The Applicant, **Darneisha Bryant**, with consent of the property owner, filed an application with the Department of Community Planning and Development for a Music and Entertainment License ("License"). The Mayor and City Council of the City of North Miami ("City Council") held a public hearing on May 8, 2012, and voted on the following:

**PETITION FOR A MUSIC AND ENTERTAINMENT LICENSE
PURSUANT TO CHAPTER 3, SECTION 3-8 OF THE CITY OF NORTH
MIAMI CODE OF ORDINANCES TO ALLOW A NIGHTCLUB IN THE
C-1 ZONING DISTRICT.**

Notice of the request for the License was given as required by law. The City Council finds that the property is located in the C-1 Zoning District and further finds:

1. The granting of the License will not substantially injure or detract from the use of the surrounding properties or from the character of the neighborhood.

2. There is sufficient parking for patrons and appropriate access facilities adequate for the estimated traffic from public streets and sidewalks so as to assure the public safety and avoid traffic congestion.
3. Where the installation of outdoor floodlighting or spotlighting is intended, that such lighting will not have any detrimental effect on neighboring property or traffic.
4. The Applicant will maintain windows, doors and other openings closed on the premises so that noise therefrom may not disturb the peace and quiet of the surrounding neighborhood and any noise caused by the establishment shall be kept at such a level so as to conform to the zoning code.
5. The Applicant will provide adequate security during nightclub operations.

IT IS THEREFORE ORDERED by the City Council, that the License as requested and set forth above for the location at 12953 Northwest 7th Avenue, is hereby **GRANTED** upon the following conditions to which the Applicant has agreed:

1. That security is provided on all nights when music and entertainment is provided;
2. The establishment shall not cause or create noise or other nuisances in the neighborhood;
3. The use of the establishment as a nightclub shall not cause, directly or indirectly, an upsurge in crime or police response incidents at or about the premises, as determined by the City of North Miami Police Chief;
4. The establishment shall at no time be rented to or allowed use by a promoter of any kind for events wherein the general public is invited to attend;
5. The use of the establishment as a nightclub shall not cause, directly or indirectly, any activity deemed to be a threat to the public health, safety, comfort, order, appearance, morals, and general welfare and quality of life in the City of North Miami, as determined by the City of North Miami Police Chief;
6. The operations on the site will be monitored by the North Miami Police Department and the Department of Community Planning and Development for compliance with these conditions and compliance with the City of North Miami's Code of Ordinances; and
7. The music and entertainment license and special exception use for the nightclub use shall be subject to revocation for violations of any of the above restrictions and conditions, as determined by the City's Police Chief and Community Planning and Development Director.

Dated this 20 day of April, 2012.

CITY COUNCIL OF THE CITY OF
NORTH MIAMI, FLORIDA

By: _____

ANDRE D. PIERRE, ESQ.
MAYOR

ATTEST:

Maxine Calloway
Maxine Calloway, Director
Community Planning and Development

STATE OF FLORIDA)
) §§
COUNTY OF MIAMI-DADE)

I hereby certify that on this day, before me, appeared Maxine Calloway, to me personally known, who acknowledged that she is the Director of Community Planning and Development of the City of North Miami ("City"), a Florida municipal corporation, and that this instrument was signed for the purposes contained on behalf of the City and by the authority of the City, and that she further acknowledges the instrument to be the free act and deed of the City.

Sworn to and subscribed before me this 2nd day of May, 2012.

My Commission Expires:

G. J. Williams
NOTARY PUBLIC, STATE OF FLORIDA
G. J. WILLIAMS
MY COMMISSION # EE 152577
EXPIRES: December 11, 2015
Bonded Thru Budget Notary Services